

**DISTRICT OF COLUMBIA
OFFICE OF ADMINISTRATIVE HEARINGS**
441 Fourth Street, NW,
Washington, DC 20001

L.N., as Guardian for
H.D.

Petitioner,

v.

DISTRICT OF COLUMBIA DEPARTMENT
OF MENTAL HEALTH

and

KATHERINE R. MARSHALL, MD
Respondents

Case No.: 2011-DMH-00003

FINAL ORDER

L.N. filed a hearing request at the Office of Administrative Hearings (“OAH”) on May 9, 2011, seeking relief against the Department of Mental Health (“DMH”) and Dr. Katherine Marshall, Director of DMH’s Crisis and Emergency Service. Mr. L.N. alleges that he is the court-appointed guardian for his brother, H.D. He claims that, on April 30, 2011, his brother did not take his medication and that there is a standard, court-approved protocol when that happens. According to Mr. L.N., his brother should be transported to DMH’s Comprehensive Psychiatric Emergency Program, (“CPEP”) located at the former DC General Hospital site. Mr. L.N. states that the medication should be administered there, and that his brother must be seen by his case manager before he is released. Mr. L.N. alleges that, on April 30, his brother eventually was transported to CPEP and received his medication, but that Dr. Marshall did not hold his brother to be seen by his caseworker.¹ Mr. L.N. claims that her refusal was unlawful.

¹ Mr. L.N. has filed copies of a complaint he filed with the Office of Police Complaints objecting to the actions of several police officers who did not immediately transport his brother to CPEP when he

OAH's jurisdiction in matters involving the Department of Mental Health is limited. The Office of Administrative Hearings Establishment Act does include DMH among the agencies for which OAH holds hearings. *See generally* D.C. Official Code § 2-1831.03(a) and (b). Instead, OAH's authority in DMH cases comes from D.C. Official Code § 2-1831(c), which allows agencies to refer cases to OAH, with the consent of the Chief Administrative Law Judge. Acting according to that section, DMH and the Chief Administrative Law Judge have agreed that OAH will hear three types of cases involving DMH: Notice of Infraction cases in which DMH seeks fines for violations of regulations that it has the authority to enforce, licensing cases, and cases involving discharges, transfers or relocations by community residence facilities that DMH regulates, as provided in D.C. Official Code § 44-1003.03.

Mr. L.N.'s claim against DMH and Dr. Marshall is not one of the DMH cases that OAH is authorized to hear, and his hearing request must be dismissed for lack of jurisdiction. The dismissal is without prejudice to Mr. L.N.'s right to bring his claims before any court or agency that has jurisdiction to hear them.

called for their assistance. I do not understand Mr. L.N.'s hearing request to include any claims against the officers. If he is making any such claims, OAH has no jurisdiction, because the governing statute does not grant jurisdiction of claims against police officers. D.C. Official Code § 2-1831.03.

Therefore, it is, this _____ day of _____, 2011:

ORDERED, that Mr. L.N.'s hearing request is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction; and it is further

ORDERED, that any party may seek reconsideration or relief from this Order by following the instructions below; and it is further

ORDERED, that any party may appeal this Order by following the instructions below.

John P. Dean
Principal Administrative Law Judge